

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 STR-07 L-03 JUSE-00 FTC-01 XMB-02
AID-05 CEA-01 CIAE-00 COME-00 EB-08 EA-10 FRB-03
INR-10 IO-13 NEA-11 NSAE-00 ICA-11 OPIC-03 SP-02
TRSE-00 LAB-04 SIL-01 AGRE-00 OMB-01 SS-15 OIC-02
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USOECD

PASS JUSTICE AND FTC

E.O. 11652: N/A
TAGS: EIND, OECD
SUBJECT: JUNE MEETINGS OF OECD COMMITTEE OF EXPERTS ON
RESTRICTIVE BUSINESS PRACTICES AND ITS WORKING PARTY
THREE

1. SUMMARY: OECD COMMITTEE OF EXPERTS ON RESTRICTIVE
BUSINESS PRACTICES (RBP) MET IN PLENARY SESSION JUNE 8-9.
WORKING PARTY 3 HELD FULL-DAY SESSION JUNE 7. WORKING
PARTY 11 MET FOR TWO HOURS ON JUNE 9 TO REVISE DRAFT
RECOMMENDATION TO COUNCIL ON ACTION AGAINST RBP'S AFFECT-
ING INTERNATIONAL TRADE. PRELIMINARY DISCUSSION IN WORK-
ING PARTY 3 OF POSSIBLE IMPROVEMENTS OF 1967 AND 1973
COUNCIL RECOMMENDATIONS ON NOTIFICATION AND CONSULTATION
RESULTED IN USEFUL EXCHANGE OF VIEWS. MATTER WILL BE
TAKEN UP AGAIN AT NEXT MEETING OF WORKING PARTY 3. FULL
COMMITTEE ELECTED NEW OFFICERS, APPROVED REVISED DRAFT
RECOMMENDATION TO COUNCIL ON ACTION AGAINST RBP'S AFFECT-
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ING INTERNATIONAL TRADE, REVISED MANDATE FOR WORKING
PARTY 11 AND HEARD SERIES OF ANNUAL REPORTS FROM MEMBER
STATES. NEXT MEETING OF WORKING PARTY 3 SCHEDULED FOR
DECEMBER 13, 1978 WITH PLENARY SESSION OF RBP COMMITTEE
TO FOLLOW ON DECEMBER 14-15. END SUMMARY

2. WORKING PARTY 3, CHAIRED BY ASSISTANT ATTORNEY

GENERAL SHENEFIELD, HELD INITIAL DISCUSSION OF POSSIBLE IMPROVEMENTS OF 1967 AND 1973 COUNCIL RECOMMENDATIONS ON NOTIFICATION AND CONSULTATION, FOCUSING ON CHAIRMAN'S LETTER OF MARCH 15 AND U.S. PROPOSAL FOR A NEW, CONSOLIDATED RECOMMENDATION. DELEGATES WERE DIVIDED ON WHAT FORM ANY IMPROVEMENTS SHOULD TAKE (NEW, CONSOLIDATED RECOMMENDATION; SUPPLEMENTAL RECOMMENDATION; OR SIMPLY INCLUSION OF INTERPRETATIONS AND CLARIFICATIONS IN MINUTES OF RBP COMMITTEE). IT WAS GENERALLY AGREED THAT FORM WAS NOT CRUCIAL, AND SUBSTANTIVE DISCUSSION PROCEEDED WITHOUT PREJUDICE TO THIS QUESTION. ON ISSUES RAISED BY CHAIRMAN'S LETTER AND U.S. PROPOSAL, PRELIMINARY EXCHANGE OF VIEWS INDICATED: (A) GENERAL SUPPORT FOR RETAINING 1967 NOTIFICATION PROCEDURE AND 1973 CONSULTATION PROCEDURE, INCLUDING VOLUNTARY CONCILIATION; (B) AGREEMENT THAT CONSULTATIONS UNDER 1973 RECOMMENDATION DO NOT PREJUDICE RIGHT OF STATES TO APPLY NATIONAL LAWS (AND CONSIDERABLE, BUT NOT UNANIMOUS, SUPPORT FOR MAKING THIS EXPLICIT); (C) LITTLE SUPPORT FOR CONSULTATIONS REGARDING GOVERNMENT FACILITATION OF RBP'S; (D) GENERAL SUPPORT FOR CONSULTATIONS REGARDING RBP ENFORCEMENT ACTIONS; (E) SOME SUPPORT FOR QUALIFIED COMMITMENT BY GOVERNMENTS NOT TO PREVENT PROVISION OF INFORMATION BY ENTERPRISES TO FOREIGN GOVERNMENTS. REACTIONS TO U.S. PROPOSAL FOR WEIGHING NATIONAL INTERESTS ON BASIS OF COMITY WERE CAUTIOUS AND NONCOMMITAL, ALTHOUGH NEGALIMITED OFFICIAL USE

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TIVE IN TONE. U.S. PROPOSAL OF DECEMBER, 1977, REGARDING CONFIDENTIALITY OF INFORMATION EXCHANGED BY GOVERNMENTS UNDER THE 1967 RECOMMENDATION WAS APPROVED WITH MINOR AMENDMENTS.

3. WORKING PARTY WILL SUBMIT AGREED TEXT ON CONFIDENTIALITY TO RBP COMMITTEE AT ITS DECEMBER MEETING FOR ADOPTION AS COMMITTEE RESOLUTION WHICH MIGHT SUBSEQUENTLY BE INCLUDED IN ANY REVISION OF 1967 OR 1973 RECOMMENDATIONS. CHAIRMAN ASKED MEMBERS TO SUBMIT COMMENTS ON ISSUES OF SUBSTANCE AND FORM TO SECRETARIAT BY SEPTEMBER 15 SO THAT NEW WORKING DOCUMENT CAN BE CIRCULATED FOR NEXT MEETING OF WORKING PARTY, SCHEDULED FOR DECEMBER 13, 1978.

4. FULL RBP COMMITTEE ELECTED NEW OFFICERS ON JUNE 8 AS FOLLOWS: CHAIRMAN - LOWBEER OF SWEDEN; VICE CHAIRMAN - BERTRAND OF CANADA; STAHL OF FRG (MINISTRY OF

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ECONOMICS); UTTERBECK OF NETHERLANDS (COMPETITION AUTHOR-
ITY); MANCELBEZE OF FRANCE (COUNSELOR, COUR DES COMPTES).
COMMITTEE PROCEEDED THROUGH ITS AGENDA AND TOOK FOLLOW-
ING ACTIONS:

(A) THE DRAFT RECOMMENDATION TO THE COUNCIL ON ACTION
AGAINST RBP'S AFFECTING INTERNATIONAL TRADE, INCLUDING
THOSE INVOLVING MULTINATIONAL ENTERPRISES, WAS APPROVED
BY THE COMMITTEE, WITH MINOR AMENDMENTS MADE IN SHORT
SESSION OF WP-11 ON MORNING OF JUNE 9. THE NETHERLANDS
AGREED AD REFERENDUM. TURKEY ABSTAINED.

(B) APPROVED MANDATE FOR A NEW STUDY BY WORKING PARTY
11 ON COLLECTION OF INFORMATION, AS FOLLOWS:
QUOTE TO STUDY OBSTACLES TO, AND JURISDICTIONAL ISSUES
INVOLVED IN, THE COLLECTION OF INFORMATION ABROAD NECES-
SARY FOR THE CONTROL OF RESTRICTIVE BUSINESS PRACTICES,
INCLUDING THOSE OBSTACLES AND ISSUES RELATED TO THE
EFFECTS DOCTRINE WHERE IT IS APPLIED, AND FORMS OF INTER-
NATIONAL CO-OPERATION; IN THIS CONNECTION, TO TAKE INTO
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CONSIDERATION THE METHODS AND PROCEDURES EMPLOYED BY

MEMBER COUNTRIES TO COLLECT INFORMATION ON RESTRICTIVE BUSINESS PRACTICES; AND TO PROPOSE, IF NECESSARY, MEASURES TO IMPROVE THE SITUATION. END QUOTE WP-11 IS SCHEDULED TO MEET OCTOBER 3, 1978 TO COMMENCE WORK ON NEW MANDATE.

(C) HEARD PROGRAM REPORTS OF WORKING PARTIES. REPORT OF WORKING PARTY 3 SUMMARIZED PARA. 2 ABOVE. WORKING PARTY 10 ON REGULATED INDUSTRIES REPORTED THAT A REPORT OF FOUR CHAPTERS, PLUS CHAIRMAN'S SUGGESTED RECOMMENDATIONS AND CONCLUSIONS, WERE DISCUSSED AT ITS APRIL 10 MEETING. THESE WILL BE REVIEWED AT ITS NEXT MEETING SCHEDULED FOR OCTOBER 5 AND POSSIBLY OCTOBER 6 WITH REVISED INTRODUCTION, CONCLUSIONS AND RECOMMENDATIONS IN EXPECTATION THAT REPORT WILL BE SUBMITTED FOR APPROVAL BY FULL RBP COMMITTEE IN DECEMBER. WORKING PARTY 13 NOTED THAT AT ITS MEETING IN APRIL IT HAD AGREED ON THE OUTLINE OF A QUESTIONNAIRE FOR MEMBER COUNTRIES ON PROBLEMS ON BUYING POWER. THE QUESTIONNAIRE IS TO BE SENT TO MEMBER COUNTRIES WITHIN THE NEXT MONTH. THE NEXT MEETING OF WP-13 WILL BE ON DECEMBER 11, 1978. AD HOC GROUP ON CONCENTRATION, WHICH MET ON JUNE 6, 1978, DISCUSSED PROGRESS IN ITS REPORT AND REPEATED, AS AT PREVIOUS MEETINGS, GROUP'S HOPE THAT NON-MEMBERS OF GROUP (NOTABLY U.S.) WOULD SUPPLY INFORMATION. THE GROUP WILL MEET AGAIN ON OCTOBER 4 AND DECEMBER 12, 1978.

(D) CONSIDERED REPORT BY SECRETARIAT ON RELATIONS WITH BIAC AND TUAC. THE BUREAU OF THE COMMITTEE HAD LUNCH WITH BIAC REPRESENTATIVES ON JUNE 8TH, AND RECEIVED A SHORT BIAC PAPER COMMENTING ON INTERNATIONAL RBP INVESTIGATIONS AND THE PROPOSED STUDY TO BE UNDERTAKEN BY WP-11, LIMITED OFFICIAL USE

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AND ON THE PROPOSED RECOMMENDATION OF THE OECD COUNCIL ON RBP'S AFFECTING INTERNATIONAL TRADE, INCLUDING THOSE INVOLVING MULTINATIONAL ENTERPRISES.

(E) HEARD AND DISCUSSED ANNUAL REPORTS OF SEVEN MEMBER STATES AND EUROPEAN COMMUNITIES. OF PARTICULAR NOTE WAS THE ORAL REPORT BY THE GERMAN DELEGATION OF A PROPOSED AMENDMENT TO THE GERMAN CARTEL LAW WHICH WOULD SHIFT CONTROL OF EXPORT CARTELS TO THE MINISTRY OF ECONOMICS FROM THE FEDERAL CARTEL OFFICE AND AUTHORIZE THE MINISTRY TO TERMINATE EXPORT CARTELS WHICH ARE CONSIDERED TO HAVE SIGNIFICANT ADVERSE EFFECTS ON THE FOREIGN RELATIONS OF THE FRG.

(F) HEARD STATUS REPORT ON UNCTAD RBP EXERCISE.

5. NEXT MEETINGS OF RBP COMMITTEE ARE SCHEDULED FOR
DECEMBER 14-15, 1978.
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